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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,224	04/25/2002	Klaus Gessner	225/50746	7904
75	90 11/03/2005		EXAM	INER
Crowell & Moring			FASTOVSKY, LEONID M	
PO Box 14300 Washington, DC 20044-4300			ART UNIT	PAPER NUMBER
		•	3742	,

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Education of time may be available under the proteions of 37 CPR 1.138(a). In so event, however, may a reply be simely filled effect S(x) (00/WTHS) from the mailing date of this communication.  - If NO period for may be available under the proteions of 37 CPR 1.138(a). In so event, however, may a reply be simely filled effect S(x) (00/WTHS) from the mailing date of this communication.  - If NO period for may be available under the proteion of 37 CPR 1.138(a). In so event, however, may a reply be simely filled effect S(x) (00/WTHS) from the mailing date of this communication.  - If NO period for may be available under the proteion will apply and will apply and will apply a simely filled effect S(x) (00/WTHS) from the mailing date of this communication.  - If NO period for may be available under the mailing date of this communication, which is application in a second patent term adjustment. See 37 CPR 1.704(b).  - Status  1) □ Responsive to communication(s) filled on		10/018,224	GESSNER ET AL.				
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#### **DETAILED ACTION**

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#### Response to Arguments

1. In view of the Appeal brief filed on 8/111/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

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Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 5-7 and 10-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Jakobi.

Jakobi teaches an electrically heatable glow plug 1, having a corrosion-resistant glow pipe 7, which is closed at the end and contains a filling of electrically non-conductive, compacted powder 10 in which a heating coil 8 and an electrically conductive coil 9 are embedded. Further, Jakobi teaches that the heating coil 8 is covered by a getter material coating consisting of a metal or a mixture of metals such as a galvanic layer 13 (Fig. 4), thus inherently making the coil 8 surface-hardened (col. 3, lines 23-45), and this hardening does not affect the internal structure of the coil.

Also, claims 5-7, 10-12 and 13 are product-by-process claims, and patentability of the product does not depend on its method of production (See MPEP 2113).

As for claims 14-16, Jakobi meets all limitations of the claims.

# Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobi in

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view of Dufilho (2,565,360).

Jakobi discloses substantially the claimed invention. However, he does not disclose the

coil that is surface -hardened by a diffusion treatment called nitriding. Dufilho discloses

a method of nitriding of an electrode 2 of a spark plug 1, making it surface-hardened

(col. 2, lines 31-50). It would have been obvious to one having ordinary skill in the art to

modify Jakobi's glow plug to include a method of nitriding for the heating coil as taught

by Dufiho as a known alternative method for the surface hardening.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobi in

view of Muller et al (3,022,204).

Jakobi discloses substantially the claimed invention, but does not disclose the depth of

a diffusion zone in the nitriding process. Muller discloses a process for diffusion metals

by nitriding, having a depth of the diffusion zone about 4 to 12 microns (col. 1, lines 52-

58).

It would have been obvious tone having ordinary skill in the art to modify the invention of

Jakobi in view of Dufilho to use a depth of the diffusion zone as taught by Mueller in

order to provide a wear resistant surface of the coil (col. 1, lines 59-70)

Response to Arguments

7. Applicant's arguments with respect to claim 5-16 have been considered but are

moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leonid M Fastovsky

Examiner Art Unit 3742

Imf

ROBIN O. EVANS PRIMARY EXAMINER